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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,254	07/15/2005	Philippe Caplain	38469	2741
116 7590 12/27/2007 PEARNE & GORDON LLP 1801 EAST 9TH STREET SUITE 1200 CLEVELAND, OH 44114-3108			EXAMINER LEE, GILBERT Y	
			ART UNIT 3673	PAPER NUMBER
			MAIL DATE 12/27/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/542,254	Applicant(s) CAPLAIN ET AL.	
	Examiner Gilbert Y. Lee	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 04 October 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6-8, 10-13 and 15-35 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-4, 6, 7, 11-13, 19-24 and 26-29 is/are allowed.
- 6) ☒ Claim(s) 8, 15-18 and 30-35 is/are rejected.
- 7) ☒ Claim(s) 10 and 25 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 July 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/4/07 has been entered.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the flexible strips being concentric as claimed in claims 10, 15, 25, and 31; the flexible strips being concentric while the flexible strips are corrugated as claimed in claims 15 and 31; the flexible strips being circular and flat while the flexible strips are corrugated as claimed in claims 16 and 32; the supports radiating while the flexible strips are corrugated as claimed in claims 17 and 33; and the supports being concentric rings with differing radii while the flexible strips are corrugated as claimed in claims 18 and 34 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate

prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

3. Claim 8 is objected to because of the following informalities: in line 2, "flexible, corrugated flexible strips" should be changed to --corrugated flexible strips--.

Appropriate correction is required.

4. Claim 30 is objected to because of the following informalities: in line 2, "flexible, corrugated flexible strips" should be changed to --corrugated flexible strips--.

Appropriate correction is required.

5. Claim 35 is objected to because of the following informalities: in line 2, "flexible, corrugated flexible" should be changed to --corrugated flexible--. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. Claims 10, 15-18, 25, and 31 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Claims 10, 15, 25, and 31 recite "the flexible strips are concentric." The disclosure is only enabling for the supports/blocks to be concentric. Claims 8 and 30 seem to be directed only to the species shown Fig. 2e; however, claims 15-18 and 31-34 claim structure of other species and are not enabled.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 10, 15, 25, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 10, 15, 25, and 31 recite "the flexible strips are concentric." It is unclear as to what the flexible strips are concentric with regards to.

Claims 17, 18, 33, and 34 recite the limitation "the supports". There is insufficient antecedent basis for this limitation in the claims.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 8 and 15-18, and 31-35, as best understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Bartlett (US Patent No. 926,841).

Regarding claim 8, the Bartlett reference discloses a sealing joint (Fig. 1) comprising an external metal casing (p) having a flexible internal structure (Fig. 1) made of flexible, corrugated flexible strips (e.g. h and k), the strips contacting at support points located on either side of the strip being staggered (Fig. 1) wherein the support points occupy every other space between the strips (Fig. 1).

Regarding claim 15, the Bartlett reference discloses the flexible strips being concentric (Fig. 1). Note that the flexible strips of the Bartlett reference are just as concentric as the present disclosure.

Regarding claim 16, the Bartlett reference discloses the flexible strips being circular and flat (Fig. 1). Note that the flexible strips of the Bartlett reference are just as flat and circular as the present disclosure.

Regarding claim 17, the Bartlett reference discloses the supports radiating (Fig. 1). Note that the supports of the Bartlett reference radiates as much as the present disclosure.

Regarding claim 18, the Bartlett reference discloses the supports being concentric rings with differing radii (Fig. 1). Note that the supports of the Bartlett reference are concentric rings with differing radii as the present disclosure.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 30-35, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Nicholson (US Patent No. 5,558,347).

Regarding claim 8, the Nicholson reference discloses a sealing joint (Fig. 1) comprising an external casing (13) having a flexible internal structure (Fig. 4) made of flexible, corrugated flexible strips (e.g. both strips 3 in Fig. 4), the strips contacting at support points (e.g. 25) located on either side of the strip being staggered (Fig. 4)

wherein the support points occupy every other space between the strips (Fig. 4) and the support points each contact two of the strips (Fig. 4).

However, the Nicholson reference fails to explicitly disclose the external casing being made of metal.

It would have been obvious to one of ordinary skill in the art at the time of the invention to make the external casing out of metal since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious mechanical expedience.

Regarding claim 31, the Nicholson reference, as modified in claim 30, discloses the flexible strips being concentric (Fig. 4). Note that the flexible strips of the Nicholson reference are just as concentric as the present disclosure.

Regarding claim 32, the Nicholson reference, as modified in claim 30, discloses the flexible strips being circular and flat (Fig. 4). Note that the flexible strips of the Nicholson reference are just as flat and circular as the present disclosure.

Regarding claim 33, the Nicholson reference, as modified in claim 30, discloses the supports radiating (Fig. 4). Note that the supports of the Nicholson reference radiates as much as the present disclosure.

Regarding claim 34, the Nicholson reference, as modified in claim 30, discloses the supports being concentric rings with differing radii (Fig. 4). Note that the supports of the Nicholson reference are concentric rings with differing radii as the present disclosure.



Regarding claim 35, the Nicholson reference, as modified in claim 30, discloses the flexible internal structure being an assembly of at least two flexible, corrugated flexible strips (Fig. 4).

***Allowable Subject Matter***

10. Claims 1-4, 6, 7, 11- 13, 19-24, 26-28, and 29 are allowed.

11. Claims 10 and 25 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st and 2nd paragraphs, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

12. Applicant's arguments with respect to claim 10/4/07 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

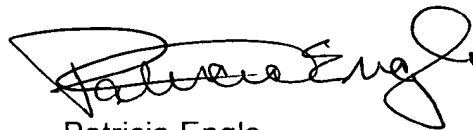
13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gilbert Y. Lee whose telephone number is 571-272-5894. The examiner can normally be reached on 8:00 - 4:30, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on (571)272-6660. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GL  
December 20, 2007

A handwritten signature in black ink, appearing to read 'Patricia Engle', with a large, stylized loop at the end.

Patricia Engle  
Supervisory Examiner  
Tech. Center 3600